

**Village of Irvington
Zoning Board of Appeals**

Minutes of Meeting held February 26, 2002

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M. on Tuesday, February 26, 2002, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members of the Board were present:

Louis C. Lustenberger, Chairman
Robert Myers
Robert L. Bronnes
George Rowe, Jr.
Paul M. Giddins
Brian Barrett

Mr. Lustenberger acted as Chairman and Mr. Giddins as Secretary of the meeting.

There were four matters on the agenda:

Case No.

2002-03 **Curt Schade** – 41 Dogwood Lane (Sheet 10; Block 260; Lot 3)

This was a continued matter from the board's previous meeting. Mr. Giddins did not vote on the matter. The Applicant appeared by his architect Wayne Striper.

The Applicant sought a variance from the provisions of §§ 224-13 (coverage), 224-11 (rear-yard set back) and 224-89 (non-conformity) of the Irvington Zoning Ordinance (the “Code”), to permit the construction of a deck to the rear of the house.

The Board reviewed drawings submitted by the Applicant, which demonstrated the existence of similar additions, in many cases decks, to houses in the immediate vicinity of the Applicant’s house. The board concluded that the Applicant’s situation was unique in that the distance from his rear property line to the nearest structure on the Fieldpoint development, which borders the rear of the property, was 100 feet or more. The board concluded that this factor gives the Applicant a de facto set-back far in excess of the 30 foot requirement, since no building can occur between the property and the Fieldpoint houses. These factors outweighed the size of the requested variance, which was substantial, namely, a 15-foot intrusion into a 30-foot set back, or a 50% variance.

After weighing the applicable factors, the board concluded that the benefit to the Applicant from granting the variance outweighed any detriment to the health, safety and welfare of the neighborhood or community. The Board also found that granting the variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, and that the benefit sought by Applicant could not feasibly be achieved by any method other than a variance, and that the requested variance was small. Finally, the Board found that the requested variance would not adversely affect the physical or environmental conditions of the neighborhood or district and that the self-created nature of the hardship necessitating the request for a variance, if any, was not sufficient to outweigh the factors in favor thereof, and was nevertheless warranted under the other criteria of New York State Village Law § 7-712-b.

There was no opposition to the application.

The Chairman then moved that a vote be taken on the application. The motion was seconded and thereafter the Board voted on the Applicant's request for a variance. The Board voted unanimously to grant the request for a variance from the provisions of §§ 224-13 (coverage), 224-11 (rear-yard set back) and 224-89 (non-conformity) of the Code, to permit the construction of a deck to the rear of the house in accordance with plans submitted at the hearing and made a part of the record therein.

2002-05 Alan & Allyson Felix – 66 Riverview Road, (Shhet 10C, Block 226, Lots 17 and 18)

Applicants appeared by their architect Susan M. Riordan. Mr. Giddins did not vote on the matter.

In lieu of the verified statement of compliance with the notice provisions of § 224-98(A) of the Code, the Applicants filed the applicable proofs of service.

The Applicants sought a variance from the provisions of § 224-11 (front yard set back) of the Code, to permit the construction of a new front porch.

The Board reviewed drawings submitted by the Applicants, and noted that the proposed new front porch intrudes only minimally into the front yard set back and does not materially change the overall appearance of the existing house.

After weighing the applicable factors, the board concluded that the benefit to the Applicant from granting the variance outweighed any detriment to the health, safety and welfare of the neighborhood or community. The Board also found that granting the variance would not produce an undesirable change in the character of the neighborhood

or a detriment to nearby properties, and that the benefit sought by Applicant could not feasibly be achieved by any method other than a variance, and that the requested variance was small. Finally, the Board found that the requested variance would not adversely affect the physical or environmental conditions of the neighborhood or district and that the self-created nature of the hardship necessitating the request for a variance, if any, was not sufficient to outweigh the factors in favor thereof.

There was no opposition to the application.

The Chairman then moved that a vote be taken on the application. The motion was seconded and thereafter the Board voted on the Applicants' request for a variance. The Board voted unanimously to grant the request for a variance to permit the construction of a new porch on the front of the house in conformity with plans submitted at the hearing and made a part of the record therein.

2002-06 James R. Gleason and Kathleen Gleason – 115 South Broadway (Sheet 14; Block 226; Lots 1, 6 and 40)

Applicant James R. Gleason appeared with his attorney Richard Blancato.

In lieu of the verified statement of compliance with the notice provisions of § 224-98(A) of the Irvington Zoning Code ("the Code"), the Applicant filed the applicable proofs of service.

The Applicants sought a variance from the provisions of § 224-10 and 224-19 of the Code (setback requirements), to permit the construction of a new house.

The Board reviewed a letter it received from the Planning Board Chairman with respect to the application stating that the request for the southern set back reduction did

not appear warranted and suggesting certain conditions to the grant of the northern set back reduction. After considerable discussion among Board members, Applicant and his counsel and neighbors in attendance, the Board decided to leave further discussion of the proposed conditions and the southern set back to the still continuing site plan hearings before the Planning Board. If those hearings result in a site plan that requires further variances, the Board will address those variances at that time.

With respect to the request for a variance for the set back for the northern boundary of the property (East Clinton Avenue) from 30 feet to 15 feet, the Board, after weighing the applicable factors, found that the benefit to the Applicant from granting the variance outweighed any detriment to the health, safety and welfare of the neighborhood or community. In particular, the Board found that granting the variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board also found that the benefit sought could not feasibly be achieved by any method other than a variance, that the requested variance from the northern set back would not adversely affect the physical or environmental conditions of the neighborhood or district, and that the hardship necessitating the request for the variance was not self created.

There was no opposition to the application.

The Chairman then moved that a vote be taken on the application. The motion was seconded and thereafter the Board voted on the Applicants' request for a variance. The Board voted unanimously to grant the request for a variance to reduce the set back for the northern boundary of the (East Clinton Avenue) from 30 feet to 15 feet. The

Board took no further action on the remainder of the application, which also sought a variance reducing the lot's southern set back from 15 to 10 feet.

2002-07 Simun and Vesna Lubric – 275 Harriman Road (contract vendee) (Sheet 10F; Block 253; Lots 2)

The Applicants appeared by Simun and Vesna Lubric.

In lieu of the verified statement of compliance with the notice provisions of § 224-98(A) of the Code, the Applicants filed the applicable proofs of service.

The Applicants sought a variance from the provisions of § 224-11 of the Code (rear yard set-back), to permit the construction of a deck on a house proposed for construction.

The Board reviewed drawings submitted by the Applicants, and noted that the requested variance was small and necessitated by the unique character of the subject lot.

After weighing the applicable factors, the board concluded that the benefit to the Applicants from granting the variance outweighed any detriment to the health, safety and welfare of the neighborhood or community. The Board also found that granting the variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, and that the benefit sought by Applicants could not feasibly be achieved by any method other than a variance. Finally, the Board found that the requested variance would not adversely affect the physical or environmental conditions of the neighborhood or district and that the self-created nature of the hardship necessitating the request for a variance, if any, was not sufficient to outweigh the factors in favor thereof.

There was no opposition to the application.

The Chairman then moved that a vote be taken on the application. The motion was seconded and thereafter the Board voted on the Applicants' request for a variance. The Board voted unanimously to grant the request for a variance from the provisions of § 224-11 of the Code (rear yard set-back), to permit the construction of a deck on a house proposed for construction, in conformity with plans submitted at the hearing and made a part of the record therein.

There being no further business, the meeting was, upon motion duly made and seconded, unanimously adjourned.

/s/ Paul M. Giddins
Paul M. Giddins